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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,458	07/11/2003	Douglas Herrin Benson	6808D	3234

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EXAMINER	
AFTERGUT, JEFF H	

ART UNIT	PAPER NUMBER
1733	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/617,458	BENSON ET AL.	
	Examiner	Art Unit	
	Jeff H. Aftergut	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,4,6-15 and 17-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3, 4, 6-15, 17-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 3, 4, 6-10, 15, 17, 18, 21 and 22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sabee '664.

Sabee suggested that it was known at the time the invention was made to produce a stretched and necked nonwoven material which included the steps of providing a nonwoven neckable material having a width, applying tension forces to the neckable material to neck the material (note that the reference suggested that the nonwoven web of spunbonded or meltbown fibers would have been stretched between rolls 18, 20 and 96, 98 with the use of the rotary drive means and additionally that prior to introduction into the rolls 18, 20 the material was suitably drawn as desired (see column 7, lines 58-65, column 16, lines 46-51). Such drawing of a nonwoven material would have intrinsically necked the material down. Subsequent to the necking operation, the reference to Sabee '664 suggested that one skilled in the art would have

incorporated a step of subjecting the necked material to incremental stretching in a direction which was not parallel to the width of the neckable material. Note that the roll 18, 20 as well as rolls 96, 98 provided for the incremental stretching of the web in the manner claimed. The reference clearly suggested that the incremental stretching was performed with a pair of incremental stretching rolls. Additionally the reference suggested that the incremental stretching rolls included a plurality of teeth and a plurality of grooves. It should be noted that the reference suggested that that the web acted upon included spunbonded and meltblown webs, see column 4, lines 49-65. the reference taught that the strands of the spunbonded or meltblown webs were formed from polyolefins including polyethylene and polypropylene, see column 14, lines 16-18. the reference also taught that the web included a multilayer structure including the use of pulp fibers in the multilayer composite assembly, see column 12, line 67-column 13, line 7. the reference clearly taught the mechanical incremental stretching of the webs and that the finished web assembly had a greater strength as a result of the same. It did not expressly state that the incremental stretching resulted in mechanical stabilization of the assembly. The applicant is advised that it is believed such is intrinsic in the incremental stretching operation. there is nothing in the claim which differs from the processing provided by Sabee '664 and therefore it is believed that intrinsically as a function of the processing of Sabee '664 one skilled in the art would have understood that the finished web was more mechanically stable that prior to incremental stretching. Additionally, the reference did express that the processing defined in the invention is different from embossing as it molecularly oriented the material in the incremental

stretching operation. In other words, the reference is not only embossing the web of material but it is also orienting the material to render it stable and stronger. Embossing does not necessarily include the additional molecular orientating described. Clearly then, passing the web between the incremental stretching rolls therein would have formed embossments which extend across the width of the neckable material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the processing of Sabee '664 to provide for not only incremental stretching but also neck down of the web whereby the finished assembly was stable in the necked direction as such would have resulted from orientation of the fibers of the web subsequent to the neck down wherein such orientation would have intrinsically stabilized the same.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 11-14, 19, 20 , and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sabee '664 in view of Morman '992.

Sabee '664 is discussed at length above in paragraph 3 and applicant is referred to the same for a complete discussion of the reference. The reference failed to teach that one skilled in the art would have joined the necked and incrementally stretched web material to an elastic. The reference, however, did express that the necked and incrementally stretched web was used for various finished assemblies including the manufacture of disposable diapers. The reference to Morman '992, in the manufacture

of a disposable diaper, suggested that a neckable web material of nonwoven fibers was necked and following necking was joined to an elastic web. The applicant is specifically referred to column 1, lines 31-41 for example of Morman '992 where the reference expressly suggested that those skilled in the art would have desired to join an inelastic nonwoven web of polypropylene (note that Sabee suggested that the nonwovens there were suitable formed from polypropylene) to an elastic material in order to render the finished material stretchable and suitable for manufacture of such articles as diapers. As the material in Sabee was intended to be used as a diaper material, it would have been obvious to one of ordinary skill in the art at the time the invention was made to join the necked and incrementally stretched web of Sabee '664 to an elastic material as suggested by Morman '992 as such material were widely accepted as desirous in the manufacture of materials useful for disposable diapers.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 3, 4, 6-15 and 17-23 are have been considered but are moot in view of the new ground(s) of rejection.

The applicant argues that the reference to Sabee '664 would not have been combined with Morman '992. the applicant is advised that the Sabee '664 provided for the formation of the necked stabilized materials wherein one necked the material prior to the incremental stretching in the same manner as that claimed. While applicant points out that the reference to Sabee is different from embossing, the portion referred to appears to suggest that Sabee '664 is not only embossing but also orienting the material in the incremental stretching operation. Note Figure 10 and column 6, lines 17-

20 of Sabee '664 where the web was not only incrementally stretched but also it was embossed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
December 15, 2005